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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAVID KORONIK, an Individual,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC, a foreign  
limited liability company; ROBERT  
PELLEGRINO, an Individual; THERESA  
PELLEGRINO, an Individual, DOES 1  
through 10; and ROE CORPORATIONS 1  
through 10, Inclusive,

Defendants.

and

FEDERAL HOME LOAN MORTGAGE  
CORPORATION; and FEDERAL HOUSING  
FINANCE AGENCY, as Conservator of the  
Federal Home Loan Mortgage Corp.,

Intervenors

FEDERAL HOUSING FINANCE AGENCY,  
as Conservator of the Federal Home Loan  
Mortgage Corp.,

Counterclaimant,

v.

DAVID KORONIK, an individual,

Counter-Defendant

Case No: 2:13-cv-02060-APG-GWF

**REPLY TO COUNTERCLAIM BY  
INTERVENOR THE FEDERAL  
HOUSING FINANCE AGENCY AS  
CONSERVATOR FOR THE FEDERAL  
HOME LOAN MORTGAGE  
CORPORATION**

Counter-Defendant, David Koronik, by and through his counsel of record, Tisha R. Black, Esq., and Steven Mack, Esq., of Black & LoBello, as and for his Reply to the Counterclaim on file herein, submit the following:

**FIRST CAUSE OF ACTION**

**(Declaratory Judgment versus Plaintiff)**

1. Answering Paragraph 1 of the Counterclaim, the allegations contained therein are ambiguous and therefore, on that basis, Counter-Defendant denies the same.

2. Answering Paragraphs 2, 3, 4, 5, and 8 of the Counterclaim, Counter-Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained therein and therefore denies the same.

3. Answering Paragraphs 6, 7, 9, and 10 of the Counterclaim, Counter-Defendant denies the allegations contained therein.

**SECOND CAUSE OF ACTION**

**(Quiet Title versus Plaintiff)**

4. Answering Paragraph 1 of the Counterclaim, Counter-Defendant repeats and realleges each and every foregoing Paragraph and incorporates the same by reference as though fully set forth at length herein.

5. Answering Paragraphs 2 and 4 of the Counterclaim, Counter-Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained therein and therefore denies the same.

6. Answering Paragraphs 3 and 5 of the Counterclaim, Counter-Defendant admits the allegations contained therein.

7. Answering Paragraphs 6, 7 and 8 of the Counterclaim, Counter-Defendant denies the allegations contained therein.

**AFFIRMATIVE DEFENSES**

1. The Counterclaim fails to state a claim against answering Counter-Defendant upon which relief may be granted.

2. The Counterclaimant's claims for relief fail for want of consideration.

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1 3. At all times relevant to the allegations contained in the Counterclaim, Counter-  
2 Defendant acted with due care, circumspection, and good faith in the performance of any and all  
3 duties imposed on them, including full performance of obligations owed to Counter-Claimant.

4 4. Counterclaimant's claims are barred by the doctrine of equitable estoppel.

5 5. There is no cognizable claim for relief known as "damages".

6 6. Counterclaimant, by its own acts and conduct, waived its right to assert any claim.

7 7. Damages and injuries, if any, suffered by Counterclaimant are not attributable to any act,  
8 conduct, or omission on the part of Counter-Defendant.

9 8. Each and every action contained in the Counterclaim is barred by Counterclaimant's prior  
10 breach of the implied covenant of good faith and fair dealing.

11 9. Counterclaimant is barred from obtaining any relief from any claim by operation of the  
12 doctrine of unclean hands.

13 10. As to any contract, obligation, or agreement alleged by Counterclaimant to have been  
14 breached by Counter-Defendant, any duty of performance by Counter-Defendant was excused by  
15 reason of failure of consideration, the adhesive nature of the purported obligation, breach of  
16 condition precedent, impossibility, frustration of purpose, waiver and/or acceptance by  
17 Counterclaimant.

18 11. Counter-Defendant denies each and every allegations of Counterclaimant's Counterclaim  
19 not specifically admitted or otherwise pled herein.

20 12. Counterclaimant is barred from obtaining relief for any claim by reason of its failure to  
21 mitigate its damages, if any.

22 13. Counterclaimant is barred from relief for any claim by operation of the doctrine of laches.

23 14. Counterclaimant's claims are barred by the doctrine of unilateral mistake.

24 15. If, and to the extent Counter-Defendant is liable to Counterclaimant, Counter-Defendant  
25 is entitled to an offset and/or equitable recoupment for the damages owing by Counterclaimant to  
26 Counter-Defendant.

27 16. Counterclaimant should be barred from recovery in whole or in part, in proportion to the  
28 fault attributed to Counterclaimant or its agents.

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1 17. The damages claimed by Counterclaimant, if any, were caused whole or by improper acts  
2 of third parties over which these replying Counter-Defendant had no control.

3 18. Counterclaimant's claims under federal law were waived due to intentional failure or  
4 negligent failure to take actions to protect it rights pursuant to such statute or rule.

5 19. Counterclaimant's ignored written notices properly communicated and, therefore, waive  
6 any rights associated therewith.

7 20. Counterclaimant's own actions or failure to act caused its own damages.

8 21. It has been necessary for the Counter-Defendant to employ the services of any attorney to  
9 defend this Counterclaim, and reasonable sums should be allowed as and for attorney's fees,  
10 together with the costs expended in this action.

11 22. All possible affirmative defenses may not have been alleged herein insofar as sufficient  
12 facts were not available after reasonable inquiry upon the filing of Counter-Defendant's Reply,  
13 and therefore, this Replying Counter-Defendant reserves the right to amend this Reply to allege  
14 additional affirmative defenses if subsequent investigations so warrant.

15 Dated this 1<sup>st</sup> day of October, 2015.

**BLACK & LOBELLO**

/s/ Steven Mack

STEVEN MACK, ESQ.

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**CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b) and Electronic Filing Procedure IV(B), I certify that on the 2<sup>nd</sup> day of October, 2015, a true and correct copy of the **REPLY TO COUNTERCLAIM BY INTERVENOR THE FEDERAL HOUSING FINANCE AGENCY AS CONSERVATOR FOR THE FEDERAL HOME LOAN MORTGAGE CORPORATION**, was transmitted electronically through the Court's e-filing electronic notice system to the attorney(s) associated with this case. If electronic notice is not indicated through the court's e-filing system. Then a true and correct paper copy of the foregoing document was delivered *via* U.S. Mail.

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/s/ Jerri Hunsaker  
Employee of Black & LoBello